

September 17, 2018

Mr. Merrill Plait, P.E.  
Board of Education of Baltimore County  
9610 Pulaski Park Drive, Suite 204  
Baltimore, MD 21220

Re: Chadwick Elementary School  
Forest Conservation Variance  
Tracking #01-18-2806

Dear Mr. Plait:

A request for a variance from the Baltimore County Code Article 33 Environmental Protection and Sustainability, Title 6 Forest Conservation was received by this Department on September 4, 2018. The request seeks a variance to impact one specimen tree in order to construct a new elementary school facility. The existing school will be demolished and a new school building is proposed, including new play fields, parking lot, and bus loop. The existing school building ultimately proposed for demolition will continue to function as the elementary school while the new building is constructed in a different location on the property. The specimen tree to be removed is a 30-inch DBH pin oak in good condition. It is located outside of any forested areas. There are no other specimen trees on the property.

The Director of the Department of Environmental Protection and Sustainability (EPS) may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116(d)(1) of the Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the criteria under Subsection 33-6-116(d) must be met, and all three (3) of the criteria under Subsection 33-6-116(e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116(d)(1) of the Code) requires the petitioner show the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of all beneficial use of the property. The applicant is seeking to replace the existing elementary school building and associated infrastructure with a new school facility. As the property is already functioning as an elementary school, and it may be possible to reconfigure the design of the play fields so that the specimen tree is not impacted, full application of the

Mr. Merril Plait  
Chadwick Elementary School  
Forest Conservation Variance  
September 17, 2018  
Page 2

law would not deprive the applicant of all beneficial use of the property. Consequently, we find that this criterion has not been met.

The second criterion (Subsection 33-6-116 (d) (2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions of the neighborhood. The petitioner's plight is due to the location of the specimen tree relative to the buildable area for the new school building and associated infrastructure rather than general conditions of the neighborhood. Therefore, we find that the second criterion has been met.

The third criterion (Subsection 33-6-116(d) (3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. The surrounding neighborhood consists of mostly medium to high density residential areas, along with a commercial development to the north. The property has functioned as an elementary school since 1964. As such, the construction of a new school building will not alter the essential character of this neighborhood. Therefore, this criterion has been met.

The fourth criterion (Subsection 33-6-116(e) (1) of the Code) requires that the granting of the special variance will not adversely affect water quality. The project will not impact any wetlands, streams, or associated buffer areas. In addition, new stormwater management facilities will be installed where none currently exist. As a result, this Department finds that the proposed variance will not adversely affect water quality and that this criterion has been met.

The fifth criterion (Subsection 33-6-116(e) (2) of the Code) requires that the special variance request does not arise from a condition or circumstance that is the result of actions taken by the petitioner. The petitioner has not taken any actions resulting in conditions or circumstances requiring this special variance prior to its request. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33, Title 6 of the Baltimore County Code. The building would be difficult to relocate given that the existing building must remain available for use as a school until the new building is built. Consequently, there is limited space onsite for the new building to be built. Although a specimen tree is to be removed in addition to the clearing of 0.6 acre of forest, the remaining forest onsite will be retained. Furthermore, the resultant reforestation requirement will be fulfilled via the payment of a fee-in-lieu. Therefore, this variance is consistent with the spirit and intent of Article 33, Title 6 of the Baltimore County Code and this criterion has been met.

Mr. Merril Plait  
Chadwick Elementary School  
Forest Conservation Variance  
September 17, 2018  
Page 3

Based on our review, this Department finds that all required variance criteria have been met. Therefore, the requested variance is hereby approved in accordance with Section 33-6-116 of the Baltimore County Code contingent on the following conditions:

1. Mitigation for the removal of the 30-inch DBH pin oak is required, given its good condition and its location outside the forested area. Mitigation will be addressed by a payment of a \$794.81 fee by December 17, 2018 or prior to EPS approval of any permit, whichever comes first.
2. The following note must be on all subsequent plans for this development project:

“A variance was granted on September 17, 2018 by Baltimore County Dept. of Environmental Protection & Sustainability to remove one specimen tree. Conditions were placed on this variance to ensure that the spirit and intent of the Forest Conservation Law were met including paying a fee in lieu of mitigation for specimen tree impacts.”

3. This variance approval does not exempt future development activities or future removal of specimen trees at this site from compliance with Baltimore County's Forest Conservation Law.

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and a new variance request.

As the party responsible for meeting the conditions of this variance, please sign the statement on the following page and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

If you have any questions regarding this correspondence, please call Ms. Libby Errickson at (410) 887-3980.

Sincerely yours,

David V. Lykens  
Deputy Director

DVL/lbe

Mr. Merrill Plait  
Chadwick Elementary School  
Forest Conservation Variance  
September 17, 2018  
Page 4

- c. Ms. Julie Soss, MK Consulting Engineers, LLC  
Ms. Marian Honeczy, Maryland Dept. of Natural Resources

I/we agree to the above conditions to bring my/our property into compliance with  
Baltimore County's Forest Conservation Law.

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Baltimore County Board of Ed. Representative's Signature

Date

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Printed Name